

NO. 25320

IN THE SUPREME COURT OF THE STATE OF HAWAII

E. DANIEL LOTENSCHTEIN,
Plaintiff/Counterclaim Defendant/Appellant

vs.

STOEBNER HOLDINGS, INC., dba HONDA WINDWARD,
Defendant/Counterclaim Plaintiff/Appellee

and

JOHN DOES 1-10; JANE DOES 1-10; DOE CORPORATIONS 1-10; DOE
GOVERNMENTAL ENTITIES 1-10; DOE ENTITIES 1-10, Defendants

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1RC02-2920)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Ramil, and Acoba, JJ.)

Upon review of the record, it appears that the August 2, 2002 judgment in Civil No. 1RC02-2920, the Honorable Hilary Benson Gangnes presiding, is not an appealable final judgment under HRS § 641-1(a) (1993). The August 2, 2002 judgment appears to have disposed of Plaintiff/Counterclaim-Defendant/Appellant E. Daniel Lotenschtein's (Appellant Lotenschtein) claims against Defendant/Counterclaim-Plaintiff/Appellee Stoebner Holdings, Inc., dba Honda Windward (Appellee Stoebner Holdings) for (1) breach of contract and (2) unfair and deceptive trade practices. However, neither the August 2, 2002 judgment nor any written order of the district court disposed of Appellee Stoebner Holdings' counterclaim for civil assault. Therefore, the district court did not terminate all of the claims. Without a disposition of the counterclaim, the August 2, 2002 judgment is not an appealable final judgment under HRS § 641-1(a) (1993), and Appellant Lotenschtein's appeal is premature. See HRCF Rule 4(a)(5) ("A judgment or order is

entered when it is filed in the office of the clerk of the court."); Ciesla v. Reddish, 78 Hawai'i 18, 20, 889 P.2d 702, 704 (1995) ("Judgment is not final in a case until all claims of the parties have been terminated.") (citation omitted). Accordingly,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of jurisdiction.

DATED: Honolulu, Hawai'i, December 10, 2002.